

AMENDED IN SENATE SEPTEMBER 3, 2013

AMENDED IN SENATE JULY 10, 2013

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 217

Introduced by Assembly Member Bradford
(Principal coauthor: Senator De León)

January 31, 2013

An act to amend Sections 2851 and 2852 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL’S DIGEST

AB 217, as amended, Bradford. Electricity: solar electricity: low-income households.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Decisions of the commission adopted the California Solar Initiative administered by the state’s 3 largest electrical corporations and subject to the commission’s supervision. Existing law requires the commission to ensure that not less than 10% of the funds for the California Solar Initiative are utilized for the installation of solar energy systems, as defined, on low-income residential housing, as defined. Pursuant to this requirement, the commission adopted decisions that established the Single-Family Affordable Solar Homes Program (SASH) and the

Multifamily Affordable Solar Housing Program (MASH), pursuant to which the electrical corporations provide monetary incentives for the installation of solar energy systems on low-income residential housing. The SASH and MASH programs will operate until December 31, 2016, or until funds collected for the above purposes are exhausted, whichever occurs sooner.

This bill would, upon the ~~exhaustion~~ *expenditure or reservation* of those funds *reserved for low-income residential housing*, authorize the surcharge collected by the electrical corporations for the California Solar Initiative to continue to provide funding for the administration of the SASH and MASH programs. The bill would require the commission to ensure the total amount resulting from the continued collection of the charge does not exceed \$108,000,000. The bill would extend the operation of the SASH and MASH programs to December 31, 2021, or until the exhaustion of that amount, whichever occurs sooner. The bill would require the SASH and MASH programs to meet specified requirements. The bill would make legislative findings and declarations that it is the goal of the state to install solar energy systems that have a generating capacity equivalent to 50 megawatts for low-income residential housing *and that the commission designs a program that maximizes the overall benefit to ratepayers*. Because a violation of any order, decision, rule, direction, demand, or requirement of the commission is a crime, this bill would impose a state-mandated local program by extending the application of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares that it is the
- 2 goal of the state to install solar energy systems that have a
- 3 generating capacity equivalent to 50 megawatts for low-income
- 4 residential housing. It is also the intent of the Legislature to ensure
- 5 that the commission designs a program that ~~reaches low-income~~

1 ~~communities with a high-energy demand load so that it is~~
2 ~~affordable for all~~ *maximizes the overall benefit to ratepayers.*

3 SEC. 2. Section 2851 of the Public Utilities Code is amended
4 to read:

5 2851. (a) In implementing the California Solar Initiative, the
6 commission shall do all of the following:

7 (1) (A) The commission shall authorize the award of monetary
8 incentives for up to the first megawatt of alternating current
9 generated by solar energy systems that meet the eligibility criteria
10 established by the Energy Commission pursuant to Chapter 8.8
11 (commencing with Section 25780) of Division 15 of the Public
12 Resources Code. The commission shall determine the eligibility
13 of a solar energy system, as defined in Section 25781 of the Public
14 Resources Code, to receive monetary incentives until the time the
15 Energy Commission establishes eligibility criteria pursuant to
16 Section 25782. Monetary incentives shall not be awarded for solar
17 energy systems that do not meet the eligibility criteria. The
18 incentive level authorized by the commission shall decline each
19 year following implementation of the California Solar Initiative,
20 at a rate of no less than an average of 7 percent per year, and,
21 except as provided in subparagraph (B), shall be zero as of
22 December 31, 2016. The commission shall adopt and publish a
23 schedule of declining incentive levels no less than 30 days in
24 advance of the first decline in incentive levels. The commission
25 may develop incentives based upon the output of electricity from
26 the system, provided those incentives are consistent with the
27 declining incentive levels of this paragraph and the incentives
28 apply to only the first megawatt of electricity generated by the
29 system.

30 (B) The incentive level for the installation of a solar energy
31 system pursuant to Section 2852 shall be zero as of December 31,
32 2021.

33 (2) The commission shall adopt a performance-based incentive
34 program so that by January 1, 2008, 100 percent of incentives for
35 solar energy systems of 100 kilowatts or greater and at least 50
36 percent of incentives for solar energy systems of 30 kilowatts or
37 greater are earned based on the actual electrical output of the solar
38 energy systems. The commission shall encourage, and may require,
39 performance-based incentives for solar energy systems of less than
40 30 kilowatts. Performance-based incentives shall decline at a rate

1 of no less than an average of 7 percent per year. In developing the
2 performance-based incentives, the commission may:

3 (A) Apply performance-based incentives only to customer
4 classes designated by the commission.

5 (B) Design the performance-based incentives so that customers
6 may receive a higher level of incentives than under incentives
7 based on installed electrical capacity.

8 (C) Develop financing options that help offset the installation
9 costs of the solar energy system, provided that this financing is
10 ultimately repaid in full by the consumer or through the application
11 of the performance-based rebates.

12 (3) By January 1, 2008, the commission, in consultation with
13 the Energy Commission, shall require reasonable and cost-effective
14 energy efficiency improvements in existing buildings as a condition
15 of providing incentives for eligible solar energy systems, with
16 appropriate exemptions or limitations to accommodate the limited
17 financial resources of low-income residential housing.

18 (4) Notwithstanding subdivision (g) of Section 2827, the
19 commission may develop a time-variant tariff that creates the
20 maximum incentive for ratepayers to install solar energy systems
21 so that the system's peak electricity production coincides with
22 California's peak electricity demands and that ensures that
23 ratepayers receive due value for their contribution to the purchase
24 of solar energy systems and customers with solar energy systems
25 continue to have an incentive to use electricity efficiently. In
26 developing the time-variant tariff, the commission may exclude
27 customers participating in the tariff from the rate cap for residential
28 customers for existing baseline quantities or usage by those
29 customers of up to 130 percent of existing baseline quantities, as
30 required by Section 739.9. Nothing in this paragraph authorizes
31 the commission to require time-variant pricing for ratepayers
32 without a solar energy system.

33 (b) Notwithstanding subdivision (a), in implementing the
34 California Solar Initiative, the commission may authorize the award
35 of monetary incentives for solar thermal and solar water heating
36 devices, in a total amount up to one hundred million eight hundred
37 thousand dollars (\$100,800,000).

38 (c) (1) In implementing the California Solar Initiative, the
39 commission shall not allocate more than fifty million dollars
40 (\$50,000,000) to research, development, and demonstration that

1 explores solar technologies and other distributed generation
2 technologies that employ or could employ solar energy for
3 generation or storage of electricity or to offset natural gas usage.
4 Any program that allocates additional moneys to research,
5 development, and demonstration shall be developed in
6 collaboration with the Energy Commission to ensure there is no
7 duplication of efforts, and adopted by the commission through a
8 rulemaking or other appropriate public proceeding. Any grant
9 awarded by the commission for research, development, and
10 demonstration shall be approved by the full commission at a public
11 meeting. This subdivision does not prohibit the commission from
12 continuing to allocate moneys to research, development, and
13 demonstration pursuant to the self-generation incentive program
14 for distributed generation resources originally established pursuant
15 to Chapter 329 of the Statutes of 2000, as modified pursuant to
16 Section 379.6.

17 (2) The Legislature finds and declares that a program that
18 provides a stable source of monetary incentives for eligible solar
19 energy systems will encourage private investment sufficient to
20 make solar technologies cost effective.

21 (3) On or before June 30, 2009, and by June 30th of every year
22 thereafter, the commission shall submit to the Legislature an
23 assessment of the success of the California Solar Initiative program.
24 That assessment shall include the number of residential and
25 commercial sites that have installed solar thermal devices for which
26 an award was made pursuant to subdivision (b) and the dollar value
27 of the award, the number of residential and commercial sites that
28 have installed solar energy systems, the electrical generating
29 capacity of the installed solar energy systems, the cost of the
30 program, total electrical system benefits, including the effect on
31 electrical service rates, environmental benefits, how the program
32 affects the operation and reliability of the electrical grid, how the
33 program has affected peak demand for electricity, the progress
34 made toward reaching the goals of the program, whether the
35 program is on schedule to meet the program goals, and
36 recommendations for improving the program to meet its goals. If
37 the commission allocates additional moneys to research,
38 development, and demonstration that explores solar technologies
39 and other distributed generation technologies pursuant to paragraph
40 (1), the commission shall include in the assessment submitted to

1 the Legislature, a description of the program, a summary of each
2 award made or project funded pursuant to the program, including
3 the intended purposes to be achieved by the particular award or
4 project, and the results of each award or project.

5 (d) (1) The commission shall not impose any charge upon the
6 consumption of natural gas, or upon natural gas ratepayers, to fund
7 the California Solar Initiative.

8 (2) Notwithstanding any other provision of law, any charge
9 imposed to fund the program adopted and implemented pursuant
10 to this section shall be imposed upon all customers not participating
11 in the California Alternate Rates for Energy (CARE) or family
12 electric rate assistance (FERA) programs, including those
13 residential customers subject to the rate limitation specified in
14 Section 739.9 for existing baseline quantities or usage up to 130
15 percent of existing baseline quantities of electricity.

16 (3) The costs of the program adopted and implemented pursuant
17 to this section may not be recovered from customers participating
18 in the California Alternate Rates for Energy or CARE program
19 established pursuant to Section 739.1, except to the extent that
20 program costs are recovered out of the nonbypassable system
21 benefits charge authorized pursuant to Section 399.8.

22 (e) ~~In-Except as provided in subdivision (f),~~ implementing the
23 California Solar Initiative, the commission shall, ~~except as provided~~
24 ~~in subdivision (f),~~ ensure that the total cost over the duration of
25 the program does not exceed three billion five hundred fifty million
26 eight hundred thousand dollars (\$3,550,800,000). ~~The Except as~~
27 ~~provided in subdivision (f),~~ financial components of the California
28 Solar Initiative shall consist of the following:

29 (1) Programs under the supervision of the commission funded
30 by charges collected from customers of San Diego Gas and Electric
31 Company, Southern California Edison Company, and Pacific Gas
32 and Electric Company. Except as provided in subdivision (f), the
33 total cost over the duration of these programs shall not exceed two
34 billion three hundred sixty-six million eight hundred thousand
35 dollars (\$2,366,800,000) and includes moneys collected directly
36 into a tracking account for support of the California Solar Initiative.

37 (2) Programs adopted, implemented, and financed in the amount
38 of seven hundred eighty-four million dollars (\$784,000,000), by
39 charges collected by local publicly owned electric utilities pursuant
40 to Section 2854. Nothing in this subdivision shall give the

commission power and jurisdiction with respect to a local publicly owned electric utility or its customers.

(3) Programs for the installation of solar energy systems on new construction, administered by the Energy Commission, and funded by charges in the amount of four hundred million dollars (\$400,000,000), collected from customers of San Diego Gas and Electric Company, Southern California Edison Company, and Pacific Gas and Electric Company.

(4) The changes made to this subdivision by Chapter 39 of the Statutes of 2012 do not authorize the levy of a charge or any increase in the amount collected pursuant to any existing charge, nor do the changes add to, or detract from, the commission's existing authority to levy or increase charges.

~~(f) Notwithstanding subdivision (e), upon exhaustion~~ *Upon the expenditure or reservation in any electrical corporation's service territory of the amount specified in paragraph (1) of subdivision (e) for low-income residential housing programs pursuant to subdivision (c) of Section 2852,* the commission shall authorize the continued collection of the charge for the purposes of Section 2852. The commission shall ensure that the total amount collected pursuant to this subdivision does not exceed one hundred eight million dollars (\$108,000,000). Upon approval by the commission, an electrical corporation may use amounts collected pursuant to subdivision (e) for purposes of funding the general market portion of the California Solar Initiative, that remain unspent and unencumbered after December 31, 2016, to reduce that electrical corporation's portion of the total amount collected pursuant to this subdivision.

SEC. 3. Section 2852 of the Public Utilities Code is amended to read:

2852. (a) As used in this section, the following terms have the following meanings:

(1) "Affordable housing cost," "affordable rent," and "lower income households" have the same meanings as in those set forth in Chapter 2 (commencing with Section 50050) of Part 1 of Division 31 of the Health and Safety Code.

(2) "California Solar Initiative" means the program providing ratepayer-funded incentives for eligible solar energy systems adopted by the Public Utilities Commission in Decision 05-12-044 and Decision 06-01-024.

1 (3) “Low-income residential housing” means any of the
2 following:

3 (A) A multifamily residential complex financed with
4 low-income housing tax credits, tax-exempt mortgage revenue
5 bonds, general obligation bonds, or local, state, or federal loans
6 or grants, and for which either of the following applies:

7 (i) The rents of the occupants who are lower income households
8 do not exceed those prescribed by deed restrictions or regulatory
9 agreements pursuant to the terms of the financing or financial
10 assistance.

11 (ii) The affordable units have been or will be initially sold at an
12 affordable housing cost to a lower income household and those
13 units are subject to a resale restriction or equity sharing agreement
14 pursuant to the terms of the financing or financial assistance.

15 (B) A multifamily residential complex in which at least 20
16 percent of the total housing units are sold or rented to lower income
17 households and either of the following applies:

18 (i) The rental housing units targeted for lower income
19 households are subject to a deed restriction or affordability
20 covenant with a public entity or nonprofit housing provider
21 organized under Section 501(c)(3) of the Internal Revenue Code
22 that has as its stated purpose in its articles of incorporation on file
23 with the office of the Secretary of State to provide affordable
24 housing to lower income households that ensures that the units
25 will be available at an affordable rent for a period of at least 30
26 years.

27 (ii) The housing units have been or will be initially sold at an
28 affordable cost to a lower income household and those units are
29 subject to a resale restriction or equity sharing agreement, for
30 which the homeowner does not receive a greater share of equity
31 than described in paragraph (2) of subdivision (c) of Section 65915
32 of the Government Code, with a public entity or nonprofit housing
33 provider organized under Section 501(c)(3) of the Internal Revenue
34 Code that has as its stated purpose in its articles of incorporation
35 on file with the office of the Secretary of State to provide affordable
36 housing to lower income households.

37 (C) An individual residence sold at an affordable housing cost
38 to a lower income household that is subject to a resale restriction
39 or equity sharing agreement, for which the homeowner does not
40 receive a greater share of equity than described in paragraph (2)

1 of subdivision (c) of Section 65915 of the Government Code, with
2 a public entity or nonprofit housing provider organized under
3 Section 501(c)(3) of the Internal Revenue Code that has as its
4 stated purpose in its articles of incorporation on file with the office
5 of the Secretary of State to provide affordable housing to lower
6 income households.

7 (4) “Solar energy system” means a solar energy device that has
8 the primary purpose of providing for the collection and distribution
9 of solar energy for the generation of electricity, that produces at
10 least one kilowatt, and produces not more than five megawatts,
11 alternating current rated peak electricity, and that meets or exceeds
12 the eligibility criteria established by the commission or the Energy
13 Commission.

14 (b) In establishing the California Solar Initiative, no moneys
15 shall be diverted from any existing programs for low-income
16 ratepayers, or from cost-effective energy efficiency or demand
17 response programs.

18 (c) (1) The commission shall ensure that not less than 10 percent
19 of the funds for the California Solar Initiative, as specified in
20 subdivision (e) of, or moneys collected pursuant to subdivision (f)
21 of, Section 2851, are utilized for the installation of solar energy
22 systems on low-income residential housing. Notwithstanding any
23 other law, the commission may modify the monetary incentives
24 made available pursuant to the California Solar Initiative to
25 accommodate the limited financial resources of low-income
26 residential housing.

27 (2) The commission may incorporate a revolving loan or loan
28 guarantee program into the California Solar Initiative for
29 low-income residential housing. All loans outstanding as of January
30 1, 2022, shall continue to be repaid consistent with the terms and
31 conditions of the program adopted and implemented by the
32 commission pursuant to this subdivision, until repaid in full.

33 (3) All moneys set aside for the purpose of funding the
34 installation of solar energy systems on low-income residential
35 housing that are unexpended and unencumbered on January 1,
36 2022, and all moneys thereafter repaid pursuant to paragraph (2),
37 except to the extent those moneys are encumbered pursuant to this
38 section, shall be utilized to augment existing cost-effective energy
39 efficiency measures in low-income residential housing that benefit
40 ratepayers.

1 (d) In supervising a program implementing the California Solar
2 Initiative pursuant to this section, the commission shall ensure that
3 the program does all of the following:

4 ~~(1) Is a cost-effective investment by ratepayers in peak~~
5 ~~electricity generation capacity where low-income residential~~
6 ~~programs are designed to reach low-income communities with a~~
7 ~~high-energy demand load.~~

8 *(1) Is designed to maximize the overall benefit to ratepayers.*

9 (2) Requires participants who receive monetary incentives to
10 enroll in the Energy Savings Assistance Program established
11 pursuant to Section 382, if eligible.

12 (3) Provides job training and employment opportunities in the
13 solar energy and energy efficiency sectors of the economy.

14 SEC. 4. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.